

Appln. No. 10/824,716
Amendment dated November 16, 2007
Reply to Office Action mailed August 16, 2007

REMARKS

Reconsideration is respectfully requested.

Claims 1 through 15 remain in this application. No claims have been cancelled. No claims have been withdrawn. Claim 16 has been added.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

Paragraphs 1 through 3 of the Office Action

Claims 1 through 15 have been rejected under 35 U.S.C. §112 (second paragraph) as being indefinite.

The above amendments to the claims are believed to clarify the requirements of the rejected claims, especially the particular points identified in the Office Action.

Withdrawal of the §112 rejection of claims 1 through 15 is therefore respectfully requested.

Paragraphs 4 through 8 of the Office Action

Claims 1 through 7 and 13 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Blumberg in view of Milsted.

Claims 8 through 10 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Blumberg in view of Milsted and further in view of Official Notice.

Claims 11, 12 and 14 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Blumberg.

As noted in the specification of the present patent application, the invention provides the creator of a work product, such as an artist, the

Appln. No. 10/824,716
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ability to present a portion or sample of a work that has not yet been created (except for the sample) to potential customers to gauge the interest in the customers in the completed work. The benefit of the invention is that the artist is able to limit the time and effort that is spent on a work before actually determining if there is a market (or potential market) for the work. If the interest is there, then the artist may complete the work knowing that the likelihood of a market for the completed work may be there. Due to the unique character of some works, such as paintings or music, a potential customer is not able to assess the desirability of having the work unless a sample portion is provided.

Tuning to the claims, claim 1, particularly as amended, requires (emphasis added):

presenting *a sample of an uncompleted version* of the work product during a time period in a location capable of being accessed from the network;

receiving at least one vote from a node connected to the network, the at least one vote being associated with one of the proposed version of the work product and a content preference; and

initiating one of: *completion of the uncompleted version of the work product, creation of a work associated with the content preference*, and no creation, based on a tabulation of votes received.

Claim 16 requires, in part, "receiving one or more votes from one or more nodes connected to the location over the Internet, the one or more votes associated with one or more of the one or more uncompleted proposed version of the one or more work products and one or more content preferences" and "notifying one or more of the one or more authors that a threshold for initiating completion of one or more of the one or more uncompleted versions of the work products or creation of one or more content preferences has been reached based on the received one or more votes".

Appln. No. 10/824,716
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With respect to claim 1, the rejection of the Office Action concedes that:

Blumberg does not explicitly teach samples, although samples could be included in design criteria.

Initially, it is submitted that the allegation that "samples *could be* included in design criteria" (emphasis added) is not relevant to the discussion of obviousness, as the Blumberg patent does not disclose that design criteria includes samples. Whether the design criteria of Blumberg includes samples is merely speculative. The rejection further asserts that:

Milsted teaches presenting a sample of a proposed version of the work product during a time period in a location capable of being accessed from the network in paragraph col 81 lines 45-50. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Blumberg to add presenting a sample of a proposed version of the work product during a time period in a location capable of being accessed from the network in order to give the buyer a taste of the goods and promote sales.

However, the Milsted patent does not disclose "presenting a sample of an uncompleted version of the work product" as required by the language of claim 1. Looking to Milsted at col. 81, lines 45 through 50, it states there that:

Prior to this point, all interaction is between the Web Server for the Electronic Digital Content Store(s) 103 and the Browser 191 on the End-User Device(s) 109. This includes preview of sample Digital Content clips. Digital Content clips are not packaged into SC(s) but instead are integrated into the web service of the Electronic Digital Content Store(s) 103 as downloadable files or fed from a streaming server.

Nothing in this portion of the Milsted patent discloses that "a sample of an *uncompleted version* of [a] work product" is being made available. It is submitted that one of ordinary skill in the art, considering the Milsted patent, would believe that a sample of complete or completed piece of digital content is being made available.

Appln. No. 10/824,716
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The rejection further states:

In paragraph 61 page 5, Blumberg teaches that the risk of insufficient investor interest is removed by the invention, but Blumberg does not explain why. Blumberg does not explicitly teach canceling or "no creation" for a product which draws few votes. But it would have been obvious to a person of ordinary skill in the art at the time of the invention to interpret Blumberg to mean that a project with insufficient investor interest would not be manufactured or created, thus eliminating risk.

However, looking to the Blumberg patent application at the cited paragraph, it is submitted that one of ordinary skill in the art considering Blumberg would understand that because Blumberg provides input by investors for the design criteria, that there would not be any need to "cancel" the manufacture of the product. Blumberg states at paragraph 61 that:

[0061] There is formed a pool or group of people interested in purchasing or investing in the manufacture, marketing and sales efforts of a specific product. A product is designed with specific design criteria chosen through the invention during the course of the design and approval process. A product is manufactured with a large number of units presold so that an economy of scale is created which allows a significantly lower price point than would be feasible without the invention. An economy of scale is created because some crucial and normal market risks are removed. For example, the risk of a low speed of sales and the risk of insufficient investor interest is removed by the invention.

Thus, since the product is produced with all of the features that have been chosen by the customers who have ordered it, one of ordinary skill in the art would recognize that there would be no purpose in canceling the production of the product.

It is therefore submitted that the cited patents, and especially the allegedly obvious combination of Blumberg, Milsted, and the Official Notice, set forth in the rejection of the Office Action, would not lead one skilled in the art to the applicant's invention as required by claims 1 and 11. Further, claims 2 through 4, 8 and 10, which depend from claim 1, claim 5, which depends from claim 3, claim 6, which depends from claim 5,

NOV 16 2007

Appln. No. 10/824,716
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claim 9, which depends from claim 2, claims 12, 13 and 15, which depend from claim 11, claim 14, which depends from claim 12 also include the requirements discussed above and therefore are also submitted to be in condition for allowance.

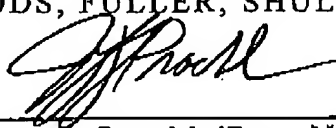
Withdrawal of the §103(a) rejection of claims 1 through 15 is therefore respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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